

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CUPERTINO UNION SCHOOL
DISTRICT.

OAH CASE NO. 2013110550

ORDER GRANTING REQUEST TO
CONTINUE THE PREHEARING
CONFERENCE AND ORDER
SETTING DUE PROCESS HEARING
DATE

The due process hearing in this matter is currently scheduled to begin on February 24, 2014, and the prehearing conference is scheduled for February 14, 2014. On February 12, 2014, the Office of Administrative Hearings (OAH) received from Student a request to continue the prehearing conference date. In the request, Student explained that: 1) the motion to amend the due process complaint (motion) filed by him is currently pending before OAH; and 2) it is expected that all currently scheduled dates in the matter would be vacated upon OAH's consideration and ruling on the motion. Therefore, Student contends that the prehearing conference date should be continued and the parties should not be required to engage in an unnecessary prehearing conference at this time in the interest of judicial economy. On February 12, 2014, District filed its notice of non-opposition to the continuance request by Student.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice, unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See, Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings (OAH) considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of

justice are served by the continuance; and any other relevant fact or circumstance. (See, Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for continuance for good cause and considered all relevant facts and circumstances. Good cause is established for continuing the prehearing conference and resetting the due process hearing dates. Student's request to continue the prehearing is:

☒ Granted. The prehearing conference and the due process hearing dates are set as follows:

Prehearing Conference: February 21, 2014, at 1:00 PM

Due Process Hearing: February 26, 2014, at 9:30 AM

IT IS SO ORDERED.

DATE: February 12, 2014

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings